

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.167 OF 2018

Mr.Purvesh Krishna Shelatkar

..Applicant

vs.

Mrs. Aruna Purvesh Shelatkar & Ors.

...Respondents

Mrs. Jai A. Vaidya for the Applicant.
None for the Respondents.

CORAM : A. M. DHAVAL, J.

DATE : 4th OCTOBER, 2018.

P.C.:

. The husband under section 24 of the Civil Procedure Code, 1908 seeks transfer of Criminal Miscellaneous Application No.2 of 2018 from the 29th Court of Metropolitan Magistrate, Bhoiwada, Dadar to the Family Court, Bandra, Mumbai, where his Marriage Petition No.A-795/2017 is pending for orders.

2. Heard learned counsel for the applicant. None present for the respondent inspite of service.

3. Both the parties are residing at Wadala, Mumbai. Divorce Petition is pending in Family Court, Bandra whereas Domestic Violence case is pending in the Court at Bhoiwada, Dadar which is not far away. There is no issue about location inconvenience.

4. Mrs. Vaidya relied on the judgment in the case of *Minoti*

Anand v. Subhash Anand, 2016(1) ALL MR 408; Swapnit Asalekar v. Ashwini Asalekar, MCA No.130/2018 decided on 26/6/2018 and Amit Kawatkar v. Sheetal Kawatkar, MCA No.284/2017 decided on 26/2/2018. In all these cases it has been held that in view of section 26 of the Domestic Violence Act, domestic violence case which is quasi civil in nature can be transferred to the Family Court. Besides in all these cases matters from sub-urban places like Girgaon, Borivali were transferred to the Family Court, Bandra.

5. In the present case, the Respondent has not filed any say and as per the pleadings it is apparent that the husband has made serious allegations about character and the conduct of wife during the matrimonial period which will require in camera hearing. It will not be fit to record such type of evidence twice at two different courts. It will be convenient for the parties as well as for the Courts to club the matters, take common evidence and decide them simultaneously to avoid any conflicting views. Hence, the order:

ORDER

- i) Application is allowed and is accordingly disposed of;
- ii) Criminal Miscellaneous Application No.2 of 2018 pending before the 29th Court of Metropolitan Magistrate, Bhoiwada, Dadar is hereby transferred to the Family Court, Bandra, Mumbai to be tagged along with Marriage Petition No.A-795/2017 and to be heard simultaneously along with it;
- iii) The parties are directed to remain present in the Family Court, Bandra on 22/10/2018;
- iv) The Superintendent/Assistant Superintendent, Court of

Metropolitan Magistrate Bhoiwada, Dadar shall see that the record is transmitted in time;

v) Family Court, Bandra shall conduct both the matters together.

(A. M. DHAVAL, J.)

Rajeshwari
Subodh
Karve

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by Rajeshwari
Subodh Karve
Date: 2018.10.23
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